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COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

SUMMARY OF H.R. 4333
THE MISCELLANEOUS REVENUE ACT OF 1988

AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

JULY 15, 1988

Prepared for the use of the Committee on Ways and Means by its staff

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THE HONORABLE DAN ROSTENKOWSKI (D., ILL.), CHAIRMAN, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES COMMITTEE APPROVAL OF H.R. 4333, THE MISCELLANEOUS REVENUE ACT OF 1988

The Honorable Dan Rostenkowski (D., Ill.,), Chairman, Committee on Ways and Means, U.S. House of Representatives, announced that the Committee approved by a vote of 33-3 and ordered favorably reported to the House with amendments, H.R. 4333, The Miscellaneous Revenue Act of 1988.

I. H.R. 4333, THE MISCELLANEOUS REVENUE ACT OF 1988

PART ONE: WAYS AND MEANS SUBCOMMITTEE PROPOSALS

A. Subcommittee on Public Assistance and Unemployment Compensation

The Committee agreed to the following public assistance and unemployment compensation provisions:

1. A one-year, no-cost extension of the moratorium on the collection of AFDC error-rate penalties; and

2. A technical amendment which would revise the dates that reports are due under the self-employment demonstration projects authorized by P.L. 100-203. (See SECTION II on page 23, of this press release for a description of a free-standing Committee amendment.)

B. Subcommittee on Social Security

The Committee agreed to minor and technical amendments relating to social security, including the following:

1. Interim disability benefits would be paid when certain Social Security Appeals Council reviews are delayed more than 110 days.

2. The annual exempt amount under the retirement test would not be prorated in the year of death and the higher exempt amount would apply.

3. The years of social security coverage required to be exempt from the windfall benefit reduction formula would be lowered from 30 to 25.

4. Benefits to individuals deported as Nazi war criminals would be terminated.

5. A public member of the Social Security Board of Trustees would be permitted to serve after the expiration of his or her term until a successor has taken office.

6. The provision which continues disability benefits through the administrative appeal process would be extended for one year.

7. Employees who belong to certain religious sects would be permitted to obtain exemption from social security coverage.

8. States and authorized blood donation facilities would be permitted to require donors to furnish social security numbers for the sole purpose of later locating and notifying donors whose blood is found to contain the AIDS virus.

9. The estate of a deceased widow(er) would be permitted to claim a lump sum death benefit if the widow(er) died before receiving such payment.

10. Group-term life insurance provided to former employees who separated from service before January 1, 1989, would be excluded from FICA tax.

PART TWO: PROPOSALS BY OTHER HOUSE COMMITTEES

A. Treatment of Enjebi Community Trust Fund Earnings and Distributions

The Committee agreed to exempt earnings on and distributions from the Enjebi Community Trust Fund from any form of Federal, State or local taxation.

B. Extension of Commencement Date of Oil Spill Liability Trust Fund and Tax on Petroleum

The commencement date of the Oil Spill Liability Trust Fund and petroleum tax would be extended so that the trust fund and tax would take effect if qualified legislation authorizing an oil spill liability program is enacted by December 31, 1990.

PART THREE: TIME-SENSITIVE SIMPLIFICATION AND CLARIFICATION PROPOSALS

A. Additional Technical Corrections

The Committee agreed to make additional technical amendments to H.R. 4333, as described in Part Three A of the Chairman's Proposal. These amendments include technical amendments to the Tax Reform Act of 1986 and the Revenue Act of 1987 (Title X of the Omnibus Budget Reconciliation Act of 1987). Some of these amendments correct errors in H.R. 4333 as introduced. In addition, these amendments strike from H.R. 4333 pension-related technical corrections which have been incorporated into H.R. 4845, a separate pension-related technical corrections bill which was jointly referred to the Committee on Education and Labor. H.R. 4845 was separately approved and ordered favorably reported to the House. (See separate press release.)

1. Change in Effective Date Regarding Outbound Corporate Reorganizations of U.S. Corporations Into Foreign Corporations Under General Utilities

A technical correction in H.R. 4333 would clarify that a transfer of property to a foreign corporation in a transaction that would otherwise qualify as a tax-free reorganization is treated in the same manner as a liquidating transfer of such property to an 80-percent foreign corporate distributee. No gain would be recognized, however, if the U.S. corporate

(cont'd.)

transferor is 80-percent controlled (within the meaning in section 368(c)) by five or fewer domestic corporations, subject to such basis adjustments and such other conditions as shall be provided in regulations to prevent the removal of corporate appreciation from U.S. taxing jurisdiction. The Committee agreed that this technical correction would apply to transactions occurring on or after June 21, 1988.

2. **Treatment of Depreciation by Certain Lessors Under the Minimum Tax Preference for Adjusted Current Earnings**

The Committee agreed to delete the provision in H.R. 4333, which would provide that in computing adjusted current earnings for corporate minimum tax purposes, in the case of a lessor of property where the income of the taxpayer is determined without regard to the allowance for depreciation, the depreciation for book purposes would be treated as the amount which would reduce the income from the lease to the net income shown for book purposes. The Committee report would state that a depreciation allowance is intended in the case of leased property under the adjusted current earnings provision, notwithstanding the absence of such an allowance in computing book income. The provision would apply to taxable years beginning after December 31, 1989.

3. **Deletion and Restriction of Certain Project-Specific Transitional Exceptions Included in the Tax Reform Act of 1986**

A transitional exception for a Newport, Rhode Island, rehabilitation project would be deleted from the technical corrections bill at the request of the original sponsor.

Transitional exceptions for a Boston, Massachusetts, low-income housing project would be clarified by statutorily requiring that an originally promised nonprofit health clinic be included in the project.

4. **Railroad Grading and Tunnel Bores**

The Committee agreed that costs of railroad grading and tunnel bores would be amortized over 50 years for both regular tax and minimum tax purposes. The provision would be effective as if enacted with the Tax Reform Act of 1986.

5. **Tax on Built-In Gain of S Corporations: Suspension of Tax in Case of Post-Conversion Losses**

In the case of a conversion of a C corporation to an S corporation, the 1986 Act provided that the recognized built-in gain is not taxed in a year to the extent it exceeds the taxable income of the corporation computed as if the corporation were a C corporation. The Committee agreed to delete the provision in H.R. 4333, which removed this "net income" limitation, so that a corporation would not pay tax on built-in gains in any year in which post-conversion losses offset those gains. However, if the corporation subsequently has post-conversion income within the 10-year recognition period, that income would be subject to the built-in gains tax, to the extent of pre-conversion built-in gain that was not taxed due to this net income limitation. The provision would be effective for "S" elections made on or after March 31, 1988.

6. **Arbitrage Restrictions on Advance Refunding Bonds**

H.R. 4333, as introduced, clarified that the provision of the 1986 Act expanding the arbitrage restrictions to all "investment-type property" applies to advance refunding bonds. The Committee agreed to an additional amendment setting September 25, 1985, as the effective date of that provision.

B. **Employee Benefits**

1. **Sanction for violation of the health care continuation requirements**

The Committee agreed to provide a modified sanction for violations of an employer's obligation to provide continuing health care coverage to employees and their dependents under certain circumstances. The Committee agreed to a minor modification of the Chairman's proposal with respect to the liability of parties other than the employer who are responsible for administering continuing health care benefits.

2. **Nondiscrimination rules for employee benefit plans (Code section 89)**

The Committee agreed to provide certain simplifying modifications and phased-in implementation of the fringe benefit non-discrimination and coverage rules under Code section 89. The Committee agreed not to direct the Secretary to take into account managed care aspects of health benefits when prescribing valuation rules.

Among other provisions, the Committee agreed to adopt the special valuation rule of the introduced bill. Under this special valuation rule, the value of an employer-provided benefit under an accident or health plan could be calculated under any actuarially reasonable valuation method adopted by the employer. Under the amendment adopted by the Committee, the special valuation rule would apply until the latter of (1) six months after the issuance of valuation rules issued by the Secretary of the Treasury, or (2) the effective date specified by the Secretary for such rules; or (3) all years beginning after January 1, 1991.

3. **Treatment of Organizations Providing Supplemental HMO-Type Services under Code Section 501(m)**

The Committee agreed to clarify that the language in the Ways and Means Committee Report for the Tax Reform Act of 1986 would not be overridden by the Statement of Managers to the Conference Report for that Act. The Committee also clarified that dental and vision care is a type of supplemental HMO-type service contemplated by the 1986 Act legislative history. The provision would be effective as if included in the 1986 Act.

C. Gift Tax Treatment of Joint and Survivor Annuities

The Committee agreed that the transfer to a spouse of an interest in a joint and survivor annuity in which no person other than the spouse has the right to receive any payments prior to the death of the last spouse to die would, unless otherwise elected, qualify for a marital deduction for Federal estate and gift tax purposes under the qualified terminable interest property (QTIP) rule. If the donee predeceases the donor, no amount with respect to the annuity would be includible in the donee's estate. The provision generally would be effective for decedents dying, and transfers made, after December 31, 1981.

D. Eligible Deferred Compensation Plans (Code section 457)

The Committee agreed that the limitations regarding unfunded deferred compensation plans provided by State or local governments or by tax-exempt organizations under section 457, would not apply in three circumstances:

1. The position of the Internal Revenue Service in Notice 88-68 would be codified and section 457 would not apply to bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, and death benefit plans.

2. The provision in the 1986 Act applying section 457 to nongovernmental tax-exempt organizations would be repealed.

3. Section 457 would not apply to nonelective deferred compensation deferred pursuant to an agreement that (a) was in writing on July 13, 1988, and (b) on such date, provided for a deferral for each taxable year covered by the agreement of a fixed amount or an amount determined pursuant to a fixed formula. This rule ceases to apply in the year in which the formula is modified. The rule would apply only to individuals covered by the agreement on July 13, 1988.

4. The Secretary of the Treasury is to submit a study on deferred compensation provided by tax-exempt and state and local government organizations. The study is to be submitted to the House Committee on Ways and Means and the Senate Finance Committee by March 1, 1989.

PART FOUR: EXTENSIONS

A. Extension of Exclusion for Employer-Provided Educational Assistance

The Committee agreed to restore the exclusion for employer-provided educational assistance retroactively to taxable years beginning after December 31, 1987, and extend the provision so that it would expire for taxable years beginning after December 31, 1990. However, the exclusion would be capped at $1,500 each year, rather than $5,250 as under prior law. In addition, the exclusion would not apply to education leading to a postgraduate degree (other than for graduate teaching or research assistants). Moreover, the definition of education ineligible for the exclusion (i.e., education involving sports, games, or hobbies) would be clarified. As under prior law, no income phaseout would apply to the exclusion.

B. **Extension and Modification of Low-Income Rental Housing Tax Credit**

Under current law, a credit having a 70-percent (30-percent on Federally-subsidized and existing housing) present value is available to owners of low-income rental housing. The Committee agreed to extend the present-law low-income rental housing credit through December 31, 1990.

The Committee agreed to Committee Report language clarifying a requirement by a local government that a developer build low-income rental housing as a condition of receiving favorable zoning variances on other real property would not affect qualification of the low-income housing for the tax credit.

The Committee also agreed to provide that changes in family size occurring as a result of death, divorce, separation, or abandonment would be disregarded in determining the gross rent which may be charged to an existing low-income tenant in a credit project. The provision would apply to low-income rental housing property placed in service after December 31, 1988.

The Committee further agreed to delete the limit on corporate ownership for partnerships comprised at all times of 35 or more partners; thus, recapture for these partnerships would be determined at the partnership, rather than the partner, level. The provision would be effective as if included in the Tax Reform Act of 1986.

C. **Extension and Modification of Qualified Mortgage Bond and Mortgage Credit Certificate Programs**

The Committee agreed to extend authority to issue qualified mortgage bonds and mortgage credit certificates (MCCs) until December 31, 1990, subject to the following changes from present law:

1. An income limitation of 115 percent of area median income would apply to families of three or more. For other households, the income limitation would be 100 percent of area median income.

2. Special adjustments to the income limitations for non-targeted areas would apply in areas having significantly high or low ratios of housing costs to area incomes when compared to national norms.

3. Issuers of qualified mortgage bonds and qualified veterans mortgage bonds would be required to rebate arbitrage profits to the Federal government.

4. A three-year loan-origination period would be imposed for qualified mortgage bonds. Unspent proceeds and prepayments would have to be used to redeem bonds.

5. The subsidy provided by qualified mortgage bond financing or an MCC generally would be recaptured on disposition of the house. Full recapture could occur if the house were sold in the first five years; the full recapture amount would phase out over years 6 through 10. Recapture would be determined using a statutorily prescribed 125 basis point interest buy-down amount. Recapture would not apply to mortgagors whose income (when the house was disposed of) was below the qualifying income limit for these programs at the time the house was purchased, adjusted for family size and for inflation since the purchase.

   Recapture generally would apply to financing provided and MCCs issued after December 31, 1988. Borrowers receiving loans after that date also would be exempt if loans were made pursuant to binding contracts with homebuilders, lenders, or borrowers entered into before June 23, 1988, and if the bonds were either (a) issued before that date, or (b) issued before August 1, 1988, pursuant to applications for State bond volume authority made before July 1, 1988.

D. **Research and Development (R&D) Provisions**

1. **Extension of Research and Development (R&D) Credit**

   The Committee agreed to extend the present-law credit through December 31, 1990. A study by the General Accounting Office of how to better target and improve the efficiency of the credit would be mandated and would be required to be submitted by December 31, 1989.

2. **Expensing of Research and Development (R&D) (Code section 174)**

   The Committee agreed that the amount of R&D spending expensed or amortized under section 174 would be reduced by the amount of the taxpayer's R&D credit for that year. The provision would be effective for taxable years beginning after December 31, 1988.

3. **Allocation and Apportionment of Research and Development (R&D) Expenses**

   The Committee approved a method for allocating R&D expenses between United States and foreign source income. U.S. persons would allocate 64 percent of U.S. R&D expenses (other than any such amounts allocated to one geographical source because of legal requirements) to U.S. source income. Similarly, U.S. persons would allocate 64 percent of expenses for R&D conducted outside the United States (other than any such amounts allocated to one geographical source because of

3. **Allocation and Apportionment of Research and Development (R&D) Expenses (cont'd.)**

legal requirements) to foreign source income. The remainder of United States and foreign R&D expenses would be allocated on the basis of gross sales or gross income. If the gross income method is used, the amount of R&D expenses allocated to foreign source income must be equal to at least 30 percent of the amount which would be allocated to foreign source income on the basis of gross sales. The Committee also agreed to clarify the treatment of expenses for R&D conducted in space, on or beneath the ocean or on Antarctica. The provision generally would be effective for taxable years beginning after August 1, 1987, and before January 1, 1991. The rule relating to allocation of foreign R&D expenses would be effective for taxable years beginning after June 21, 1988, and before January 1, 1991.

E. Extension of Targeted Jobs Tax Credit

The Committee agreed to extend the credit and the related authorization for appropriations for two years through December 31, 1990. The category of "economically disadvantaged youth" would be restricted to employees aged 18 through 21.

F. Treatment of Mutual Fund Shareholder Expenses with Respect to the 2-Percent Floor on Miscellaneous Itemized Deductions

The Committee agreed to make permanent the rule that shareholder expenses of publicly-offered mutual funds would not be treated as miscellaneous itemized deductions subject to the 2-percent floor for taxable years beginning after December 31, 1987.

G. Diesel Fuel Excise Tax Collection and Exemption Procedures

The Committee agreed that the ability to purchase diesel fuel direct from producers (including wholesale distributors) without payment of the Highway Trust Fund tax would be extended to other off-highway business users (e.g., farmers) who were permitted to make such purchases before April 1, 1988. Additionally, the definition of producer would be modified to include retail dealers which exclusively sell diesel fuel to waterway and marine users. Certain registration, bonding and reporting requirements would apply to sellers and exempt purchasers.

The provision would apply to diesel fuel and non-gasoline aviation fuel sold after June 30, 1988. A special interest-bearing refund would be provided for persons allowed to purchase fuel without payment of tax under the proposal (but not allowed to do so under present law) for tax paid after March 31, 1988, and before July 1, 1988.

PART FIVE: REVENUE-RAISING PROVISIONS

A. Dividends Received Deduction for Portfolio Stock

The Committee agreed to reduce the corporate portfolio dividends received deduction from 70 percent to 50 percent. Stock is portfolio stock if the investing corporation does not own more than 20 percent of the stock (as defined) of the payor corporation. The ownership of certain corporations under common control would be aggregated for purposes of the 20-percent test. (cont'd.)

The change in the portfolio dividends received deduction would be phased in. For dividends received or accrued after December 31, 1988, the deduction would be 55 percent, 52.5 percent after December 31, 1989, and 50 percent after 1990. The change in the aggregation rules would apply for dividends received or accrued after December 31, 1987.

The Committee also agreed to direct the Treasury Department to conduct a study of the dividends received deduction and provide any recommendations for legislative changes no later than 6 months following date of enactment.

B. Completed Contract Method of Accounting

The Committee agreed to repeal the percentage of completion-capitalized cost method of accounting for long-term contracts; thus, the full amount of all long-term contracts (other than contracts of small businesses and certain qualified ship contracts exempted under present law) would be reported on the percentage of completion method for contracts entered into on or after June 21, 1988.

C. Single Premium and Investment-Oriented life Insurance

The Committee agreed to establish a class of modified endowment contracts, cash distributions which would be taxed under rules similar to those applicable to premature distributions from annuity contracts. Thus, cash distributions (including loans) from these contracts would be subject, for the life of the contract, to tax on the first distributions to the extent of interest build-up, and the distribution would be subject to a 10-percent additional income tax on early withdrawals. The life insurance contracts classified as modified endowments would be those funded at a more rapid rate than that allowed by the payment of seven-level annual premiums. The provision would be effective for contracts issued on or after June 21, 1988, with appropriate anti-abuse rules for existing contracts.

D. Corporate Estimated Tax Payments

The Committee agreed to require corporations using the annualization method of accounting for a prior payment, to make up the entire shortfall in the subsequent payment in order to avoid an estimated tax penalty. The provision would be effective for payments after December 31, 1988.

E. Loss Transfers by Alaska Native Corporations

The Committee agreed to repeal the special rules permitting loss transfers by Alaska Native Corporations (including the rule prohibiting denial of the use of losses or credits through application of any provision or principle of law) effective for losses and credits arising after April 26, 1988. In addition, losses and credits of an Alaska Native Corporation arising on or before that date could not be used to offset income assigned (or attributable to property contributed) after that date, unless such use would be allowable without regard to the special rules.

F. Tax-Exempt Bonds Issued Under Certain Pool Arrangements (e.g., Hedge Bonds)

The Committee agreed to the following provision to restrict the issuance of tax-exempt bonds under certain pooled financing arrangements:

1. A three-year loan-origination period would be established; unspent proceeds and loan repayments would have to be used to retire bonds.

2. At least 25 percent of the issue would have to be used to make loans within one year or the shortfall would have to be used to retire bonds. A similar 50-percent rule would apply at the end of year two.

3. At the time of issuance, loan commitments would have to exist with ultimate borrowers for loans for specific projects and it would have to be reasonably expected that loans would be made pursuant to the commitments.

   Pooled financing bonds would include all bonds not subject to State volume caps where more than 5 percent ($5 million, if less) of the net proceeds are to be used to make loans to 2 or more persons.

The provision would apply to bonds (including refunding bonds) issued after July 15, 1988.

PART SIX: MISCELLANEOUS PROVISIONS

A. Individual Provisions

1. Treatment of Payments to Colleges for Right to Purchase Athletic Tickets

The Committee agreed to provide that if a taxpayer makes a payment to or for a college or university which would be deductible as a charitable contribution but for the fact that the taxpayer thereby receives (directly or indirectly) the right to purchase seating in an athletic stadium of such institution, 80 percent of such payment would be treated as a charitable contribution. No amount paid for the actual purchase of tickets, however, would be deductible under section 170. The proposal would not apply where a taxpayer receives tickets or seating in return for the payment. The provision would apply retroactively to amounts paid in taxable years beginning after December 31, 1983.

2. Rural Letter Carriers

Taxpayers who own an automobile and use it for business purposes are entitled to deduct the business portion of the actual operation and maintenance expenses, plus depreciation. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction. The Committee agreed that rural mail carriers of the U.S. Postal Service would be allowed to compute their deduction for business use of their vehicle by using 150 percent of the standard mileage rate, e.g., 33.75 cents per mile for 1987. The provision would apply to taxable years beginning after December 31, 1987.

3. Non-recognition of Gain on Principal Residence for a Surviving Spouse

Present law provides a rollover of the capital gain on a taxpayer's principal residence if the taxpayer reinvests the sale price of the old residence in a new principal residence within a period that generally equals two years. The Committee agreed that the rollover would be available in situations where one spouse dies after the sale of the old residence and before the date of the purchase of the new residence. The provision would apply to the sale of an old residence by the surviving spouse after December 31, 1984.

4. Full Deductibility of Business Meals Provided to Employees on Certain Vessels and Oil Rigs

The Committee agreed that the 20-percent reduction rule normally applicable to business meals would not apply to an otherwise allowable deduction for expenses of food or beverages that are provided on an oil or gas platform or drilling rig if such platform or rig is located either offshore or in Alaska. The provision would apply for taxable years beginning after December 31, 1987.

The Committee further agreed that the 20-percent reduction rule would not apply to expenses of food or beverages which are required by Federal law to be provided to crew members of a seagoing commercial vessel (including vessels operating on the inland waterways, but not applying to luxury water transportation). The provision would be effective for taxable years beginning after December 31, 1988.

5. Innocent Spouse Relief

The Committee agreed that innocent spouse relief is available in the case of a joint return filed before January 1, 1985, on which there is an understatement attributable to disallowed deductions of the other spouse, the amount of which exceeds the taxable income shown on the return, if the spouse seeking relief establishes that in signing the return, he or she did not know that there was such an understatement, the marriage was terminated, and the net worth of the spouse seeking relief immediately following the termination of the marriage was less than $10,000.

6. Interim Treatment of Certain Amounts Awarded Under Christa McAuliffe Fellowship Program

The Committee agreed to provide express rules for the Federal income tax treatment of amounts received, through June 30, 1990, pursuant to the McAuliffe Fellowship Program. Under this provision, fellowship amounts which are expended, in accordance with the terms of the grant, on an approved school project for the benefit and use of the school or school system would not be includible in the teacher's gross income.

7. Air Cargo and Air Passengers Treated as Same Service for Fringe Benefit Rules

Present law provides that employees of commercial passenger airlines who provide air travel services may receive air travel as a fringe benefit which is not includible in taxable income, provided that the employer incurs no substantial additional cost (including foregone revenue) in providing the air travel service to employees. The Committee agreed that employees performing services in the air cargo line of business may receive air-travel as a no-additional cost service which is not includible in taxable income. The provision would be effective January 1, 1988. The Committee agreed that no inference would be intended by this measure as to the proper tax treatment of no-cost air travel services provided to air cargo employees before the January 1, 1988, effective date,

B. Corporate Provisions

1. Woods Investment Company Provision Effective Date

The Committee agreed that for purposes of transition relief from the 1987 Omnibus Budget Reconciliation Act provision regarding the computation of gain or loss on a disposition of stock where the corporations have filed a consolidated tax return, a disposition would be treated as if it occurred on December 31, 1988, if it occurs on the next day following December 31, 1988, which is not a Saturday, Sunday, or legal holiday. Any disposition which obtains transition relief under this provision will be treated as occurring on December 31, 1988, for all purposes of the Code.

2. Regulatory Authority to Provide Access to Refunds to Statutory or Court-Appointed Fiduciary of Insolvent Members on Consolidated Tax Return

The Committee agreed to grant the Treasury Department authority to provide access to tax refunds to a statutory or court appointed fiduciary of an insolvent member of a group of corporations filing a consolidated tax return. The provision would be effective for pending or future statutory or court appointed fiduciary situations, in accordance with regulations promulgated under the Treasury Department's consolidated return regulatory authority.

3. Personal Holding Company Income of Bank Holding Companies

The Committee agreed to amend Internal Revenue Code section 543 to provide that personal holding company income of a bank holding company would not include up to $3 million in dividends received per year from a bank, if the bank holding company owns at least 25 percent of such stock (by vote and by value), and the value of stock in such banks is equal to 80 percent or more of the total assets of the holding company. The provision would apply only to taxable years of the bank holding company ending in 1989 and 1990.

C. Minimum Tax

1. Treatment of Bankruptcy and Insolvency Restructurings under the Minimum Tax Book Preference

The Committee agreed that the transfer of a corporation's own stock to its creditors in exchange for the corporation's debt in a Title 11 case (or to the extent the corporation is insolvent) would not give rise to adjusted net book income. Thus, a bankrupt or insolvent corporation would not incur a minimum tax liability by reason of transferring its stock to creditors. The provision would apply to taxable years beginning after December 31, 1986.

2. Treatment of Bankruptcy and Insolvency Restructurings under the Minimum Tax Preference for Adjusted Current Earnings

The Committee agreed to clarify in legislative history that, under current law, the transfer of a corporation's own stock to a creditor in a Title 11 case (or to the extent the corporation is insolvent) would not give rise to adjusted current earnings where the stock-for-debt exception applies in computing taxable income. The provision would apply to taxable years beginning after December 31, 1989.

3. Minimum Tax Treatment of Structured Settlement Arrangements

The Committee agreed to provide an exception to the inclusion of income on annuity contracts under the adjusted current earnings provision, in the case of an annuity contract which is a qualified funding asset within the meaning of section 130(d) (without regard to whether there is a qualified assignment). The proposal would be effective for taxable years beginning after December 31, 1986.

D. Accounting Provisions

1. Exemption of Expenses of Freelance Authors, Artists, and Photographers from the Uniform Capitalization Rules

The Committee agreed that the uniform capitalization rules of the 1986 Tax Reform Act would not apply to any otherwise deductible expense paid or incurred by an individual engaged in the business of being a writer, artist, or photographer. The exemption would not apply to expenses paid or incurred in the person's capacity as an employee. Expenses incurred by a qualified employee-owned corporation which relate directly to the activities of a qualified employee-owner would qualify to the extent the expenses would qualify if incurred directly by the employee-owner. The provision would be effective as if included in the Tax Reform Act of 1986.

2. Exemption of Expenses of Certain Producers of Animals from the Uniform Capitalization Rules

The Committee agreed that the uniform capitalization rules of the 1986 Tax Reform Act would not apply to otherwise deductible expenses which are incurred by a taxpayer in connection with the production of animals in any farming business other than a farming business of a corporation, partnership or tax shelter which is required to use an accrual method of accounting. The provision generally would apply to costs incurred after December 31, 1988, in taxable years ending after that date.

3. Election of Producers of Pistachio Nuts to Deduct Preproductive Period Costs Currently

The Committee agreed that taxpayers who are engaged in the planting, cultivation, maintenance, or development of pistachio trees, and who are not required to use an accrual method of accounting, would be permitted to elect to deduct preproductive period costs currently. If this election is made, gain from the disposition of pistachio nuts would be taxed as ordinary income to the extent of prior deductions which otherwise would have been capitalized. All farm assets placed in service in any taxable year for which an election is in effect would be subject to the alternative depreciation system. The provision would be effective as if included in the Tax Reform Act of 1986.

4. Treatment of Certain Pledged Installment Sales

The Committee agreed that the special rule in the Revenue Act of 1987 which treats the net proceeds of an indebtedness as payment on a nondealer real property installment obligation would not apply to indebtedness which is secured by a nondealer real property installment obligation after December 17, 1987, if the indebtedness is incurred to refinance indebtedness which was secured by the nondealer real property installment obligation on December 17, 1987. This rule would apply only to the extent that the principal amount of the indebtedness under the refinancing does not exceed the principal amount of the refinanced indebtedness immediately before the refinancing. In addition, the rule would not apply to a voluntary refinancing subsequent to the first such voluntary refinancing. The provision would be effective as if included in the Revenue Act of 1986.

5. **Treatment of Stock Held in Trust in Determining Whether Certain Corporations May Use the Cash Method of Accounting**

The Committee agreed to direct the Treasury Department to issue regulations which would treat stock owned by non-grantor trusts as indirectly owned by beneficiaries of the trust in determining whether the 95-percent ownership test is satisfied for purposes of defining qualified personal service corporations which may use the cash method of accounting. The provision would be effective as if included in the Tax Reform Act of 1986.

E. Insurance Provisions

1. **Repeal of General Creditor Requirement for Certain Personal Injury Liability Assignments**

The Committee agreed that a liability assignment would be treated as a qualified assignment notwithstanding that the recipient is provided creditor's rights against the assignee greater than those of a general creditor. No amount would be currently includible in the recipient's income as a result of providing to the recipient creditor's rights which are greater than the rights of a general creditor. The provision would apply to liability assignments made after date of enactment.

2. **Treatment of Certain Workers' Compensation Funds**

The Committee agreed that for taxable years beginning before January 1, 1987, qualified workers' compensation funds would be provided relief from deficiency assessments relating to the timing of the deduction for policyholder dividends. Further, the Committee agreed to clarify that dividends declared by a workers' compensation fund are not deductible for the year declared if the amount of the declared dividend is subject to approval by a State regulatory authority in a later taxable year. The provision would be effective on date of enactment.

3. **Church Self-Insured Death Benefit Plans Treated as Life Insurance**

The Committee agreed, for purposes of Internal Revenue Code sections 101(a) and 79, the term "life insurance contracts" generally would include certain church self-funded death benefit arrangements, even if the arrangements do not constitute life insurance under applicable State law. In addition, the cost of such a life insurance contract would be includible in gross income except to the extent that the cost would be excludable under section 79 as group-term life insurance. The provision would be effective as if included in the Deficit Reduction Act of 1984.

4. **Financial Reporting and Discounting of Property and Casualty Insurance Company Reserves**

The Committee agreed to provide property and casualty companies the ability to pay certain tax liabilities through the purchase of a prepaid tax certificate which would be non-refundable, non-interest bearing and nontransferable, on account of certain financial reporting requirements of such companies.

F. Pension Provisions

1. Grandfather for Limitations on Benefits under Qualified Plans Maintained by Employers

Present law provides that, generally, the annual benefit provided under a defined benefit plan may not exceed $90,000. An actuarial reduction of this limit is required for employees who retire at ages younger than normal retirement age. A special actuarial reduction rate is available to employees of public employers. The Committee agreed that a public employer would not be treated as violating the limits on annual benefits if the benefits paid to an employee do not exceed the greater of (1) the usual limits on annual benefits, or (2) the accrued benefit of an employee who became a plan participant before January 1, 1989, determined without regard to any benefit increases in plan amendments adopted after October 14, 1987. This special rule would apply only if the employer elects to apply the rules of present law relating to limits on annual benefits without regard to the special rules of present law applicable to public plans.

2. Grandfather Certain Public Retirement Plans from Minimum Participation Rules

The Committee agreed that the minimum participation rules of present law (providing that a plan must benefit at least 50 employees, or 40 percent of the employer's employees, whichever is less) would not apply to any governmental plan with respect to employees who were participants in the plan on July 14, 1988.

3. Age 70-1/2 Required Beginning Date Not Extended to Public Employees

The Committee agreed that in the case of a governmental plan, the distribution of pension benefits would not be required until the later of (1) April 1 of the calendar year following the calendar year in which the participant attains age 70-1/2, or (2) April 1 of the calendar year following the calendar year in which the employee retires. The provision would be effective as if included in the Tax Reform Act of 1986.

4. Section 401(k) Plans Available to Employees of Rural Telephone Cooperatives

The Committee agreed that rural telephone cooperatives would be permitted to maintain 401(k) plans. The provision would be effective for years beginning after date of enactment.

5. Section 403(b) Nondiscrimination Requirements and Other Pension Provisions

(a) Section 403(b) nondiscrimination rules: The Committee agreed that in the absence of Treasury guidance on which employers may rely, employers would be permitted to make reasonable interpretations of the section 403(b) nondiscrimination rules based on the statute and its legislative history. The reasonable interpretation standard would remain in effect until the later of the first plan year beginning (1) after December 31, 1990, or (2) at least six months following the issuance of rules on which a taxpayer may rely (e.g., temporary or final regulations, or proposed regulations if taxpayers may rely on them).

(b) Other pension provisions: The Committee also agreed that the Secretary would be directed to expedite all pension related rules which were required by February 1, 1988. Pending the issuance of such rules with respect to the provisions other than the section 403(b) nondiscrimination requirements, employers would be permitted to make reasonable interpretations of the statute and legislative history, as long as those interpretations are made in good faith.

6. Early Withdrawal Tax Inapplicable to Annuity Payments Even if Lump-Sum Benefit Also Payable

Under present law, a 10-percent additional income tax is applicable to withdrawals from a qualified pension plan before the participant dies, becomes disabled, or attains age 59-1/2. The early withdrawal tax does not apply to a distribution in the form of a life or joint life annuity, that is, a distribution to an employee that is part of a scheduled series of substantially equal periodic payments for the life, or life expectancy, of the participant (or the joint lives, or life expectancies, of the participant and the participant's beneficiary).

The Committee agreed to clarify in the legislative history that the annuity payments to an employee that are not otherwise subject to the additional income tax on early withdrawals would not become subject to the tax merely because a separate non-annuity payment is made to the employee (e.g., a lump sum early retirement incentive payment).

G. Foreign Provisions

1. Dual Resident Companies

The Committee agreed to allow a U.S. corporation which has an excess loss account with respect to its stock which arose prior to January 1, 1988, and while the corporation was also a United Kingdom resident, to reorganize as a new U.K. corporation without the recapture of its excess loss account by its parent on the disposition of the U.S. corporation's stock. Instead, the excess loss account would be suspended until the stock in the new United Kingdom corporation is disposed of outside of the affiliated group. The provision would be effective for reorganizations occurring after date of enactment.

2. Gambling Winnings of Nonresident Aliens

The Committee agreed to codify the current IRS practice of not collecting the 30-percent withholding tax on U.S. gambling winnings of nonresident aliens from blackjack, roulette, baccarat, craps, and big six wheel. However, the proposal would enable the Service to collect the tax on winnings from those games if, as a result of future changes in the conduct of the games or payment of winnings, Treasury determines that such collections have become administratively feasible and not disruptive to the gambling industry. The provision would be effective for winnings on or after date of enactment.

3. Election to Be a Qualified Electing Fund in a Passive Foreign Investment Company (PFIC)

The Committee agreed that the election to be a qualified electing fund in a PFIC would be made at the U.S. shareholder level, rather than at the company level. The shareholder election would be available, however, only where the PFIC complied with appropriate requirements (as prescribed by regulation) to determine the income of the company and other information necessary to carry out the PFIC provisions. The provision would be effective as if included in the Tax Reform Act of 1986.

4. Foreign Currency Transactions

The Committee agreed that income and loss on foreign currency-related forwards, futures, options, and similar instruments would be sourced on a residence basis and treated as ordinary income or loss, without regard to whether the instruments are, or would be, marked to market under section 1256. The provision would be effective for instruments entered into or acquired after July 14, 1988.

5. Debt-Equity Ratio of Netherlands Antilles Finance Subsidiaries

The Tax Reform Act of 1984 repealed the withholding tax on U.S. source interest paid to foreign persons for interest paid on obligations issued after July 18, 1984, while grandfathering certain debt of U.S. corporations owed to certain controlled foreign corporations organized in the Netherlands Antilles, if the debt-equity ratio in such subsidiary was no greater than 5-to-1 (pursuant to certain revenue rulings). The Committee agreed to allow a U.S. parent to increase its debt-equity ratio in its Netherlands Antilles subsidiary to 25-to-1 without violating the provisions of the 1984 Act's grandfathering. The provision would be effective for taxable years ending after date of enactment.

6. Treatment of Foreign Insurance Branch as Controlled Foreign Corporation

The Committee agreed to treat a foreign branch of a controlled foreign corporation as a separate corporation for purposes of applying the same-country exception to insurance income derived by controlled foreign corporations. Rules would be provided to treat remittances by the branch as a dividend for purposes of imposing current tax on repatriated earnings. The provision would be effective for taxable years beginning after December 31, 1988.

H. Tax-Exempt Bonds

1. Clarification of Definition of Manufacturing for Qualified Small-Issue Bonds

The Committee agreed to clarify that the definition of manufacturing does not preclude the use of a portion of the proceeds of an issue of qualified small-issue bonds to finance facilities for ancillary activities conducted at the manufacturing site, provided those activities meet several criteria and provided at least 75 percent of the proceeds of the issue are used to finance the core manufacturing (i.e., production) facility itself. The provision would apply to bonds issued after date of enactment.

2. Extension of Minimum Period for Calculating TRAN Safe-Harbor Compliance

The Committee agreed to extend to 6 months the minimum period for determining whether issuers of tax and revenue anticipation notes (TRANS) qualify for a statutory safe harbor exempting TRANS from the tax-exempt bond arbitrage rebate requirement. (This amendment does not affect Treasury's temporary period regulations on TRANS or Treasury's regulatory authority under the statutory safe harbor). The provision would apply to TRANS issued after date of enactment.

3. Clarification of Treasury Department Arbitrage Rebate Regulatory Authority with Respect to Governmental Bonds

The Committee agreed to Committee report language clarifying that Treasury may, in its discretion, create safe harbors for calculating rebate payments with respect to governmental bonds in cases where it determines that the safe harbors will encourage prompt expenditure of bond proceeds and, without encouraging issuance of bonds followed by investment of proceeds in higher yielding investments, reduce administrative burdens on State and local governments. The provision would be effective as if included in the Tax Reform Act of 1986.

4. Application of Arbitrage Rebate Requirement to Bona Fide Debt Service Funds

The Committee agreed to two amendments to a present law exemption from the tax-exempt bond arbitrage rebate requirement for bona fide debt service funds. First, the $100,000 earnings limit would not apply to governmental bonds having a weighted average maturity of five years or more and bearing interest at a fixed rate for the entire term of the bonds. Second, the exemption would be mandatory for all bond issues. The provision would apply to bonds issued after date of enactment.

5. Clarification that Certain Volunteer Fire Departments Qualify for Tax-Exempt Financing

The Committee agreed to exempt from the requirement that a volunteer fire department be the exclusive provider of fire-fighting services, volunteer fire departments which qualify for tax-exempt financing except for the fact that, since January 1, 1981, the governmental unit being served has continuously and exclusively been served by more than one volunteer fire department and to clarify that certain land may be financed when acquired in connection with a firehouse. The provision would apply to bonds issued after date of enactment.

I. Estate and Gift Tax

1. Special Use Valuation of Farm Property for Estate Tax Purposes

A surviving spouse's cash rental of specially-valued real property to qualified heirs would not result in the property failing to be treated as still used in a qualified use for purposes of the special use valuation recapture tax. The provision would be effective for recapture events occurring after date of enactment.

2. Treatment of Certain Sales of Stock to ESOPs

Present law provides an estate tax deduction in the case of certain sales of stock to an Employee Stock Ownership Plan (ESOP). An excise tax is imposed on an employer maintaining an ESOP which disposes of stock acquired in a sale which qualified for the estate tax deduction if the disposition is within three years of the date of the qualifying sale. The Committee agreed to an exception to the three-year holding period requirement in the case of stock held by an ESOP which has a noncontrolling interest in the employer, if the disposition is made pursuant to a requirement of State law.

J. Compliance

1. Disclosure of Return Information to Certain Cities

The Committee agreed to authorize the Secretary to disclose returns and return information to local tax administrators in cities with populations in excess of 250,000 (rather than the present-law requirement of population in excess of 2 million) which impose taxes on income or wages. The various safeguards and conditions governing disclosure of returns and return information to local tax administrators would remain unchanged. The provision would be effective on date of enactment.

K. Excise Taxes

1. Certain Tolerances Permitted in Determination of Wine Tax

The Committee agreed to authorize the Secretary of the Treasury to prescribe permitted de minimis tolerances for the amount of wine contained in commercial containers so that if the amount of wine in a container was within these tolerances, tax would not be collected for any excess wine actually in the container. The provision would be effective on January 1, 1989.

2. Gasoline Wholesalers Permitted to Claim Refunds for Certain Tax-Exempt Users

The Committee agreed to allow wholesale distributors (defined as under the diesel fuel excise tax provisions) selling gasoline to certain exempt users to claim refunds of gasoline tax for these users on the same basis as refiners and terminal operators may do under present law whenever the wholesale distributors purchase diesel fuel tax-paid and pass through the benefit of a tax-free sale. The provision would apply to gasoline sold by wholesale distributors after September 30, 1988.

3. Exemption from Harbor Maintenance Tax for Cargo Donated for Humanitarian Purposes

The Committee agreed to exclude from the harbor maintenance tax cargo which is donated for humanitarian and development assistance overseas, where such cargo is owned or financed by a nonprofit organization or cooperative, and where the Customs Service certifies that the cargo is, in fact, intended for donation overseas. The provision would be effective on April 1, 1987 (the effective date of the tax).

4. Exemption from Certain Truck Excise Taxes Where Benefit Accrues to United States

The Committee agreed to give the Treasury Department authority to exempt from the retail excise tax on heavy trucks those sales where it is demonstrated that the benefit of the exemption would accrue to the Federal Government. The provision would apply to sales occurring after date of enactment.

5. Allow Quarterly Payment of Excise Tax on Bows and Arrows

The Committee agreed that persons liable for payment of the excise tax on bows and arrows would be excused from semi-monthly deposit requirements; thus, the tax would be paid when regular quarterly excise tax returns are required to be filed. The provision would be effective for taxable events occurring after December 31, 1988.

L. Miscellaneous

1. Repeal of Long-Term Bond Authority

Under current law, the Secretary of the Treasury is allowed to issue up to $270 billion in bonds (obligations which mature more than 10 years after issue date) with interest rates above the 4-1/4-percent statutory limit. The Committee agreed to repeal the 4-1/4-percent statutory limitation.

2. Discharge of Indebtedness Income of Mutual or Cooperative Telephone, Water or Electric Companies

Under present law, a mutual or cooperative telephone, electric or water company qualifies for exemption from Federal income taxation if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses of providing service to its members. The Committee agreed that the 85-percent test of section 501(c)(12) would be determined without regard to any discharge of indebtedness income arising in 1987, 1988, or 1989 on debt which either originated with, or is guaranteed by, the Federal Government. The provision would be effective for discharge of indebtedness income realized after December 31, 1986, and before January 1, 1990.

3. One-Year Extension of Placed-in-Service Rule for Nonconventional Fuels Credit

The Committee agreed that qualified fuels would be eligible for the nonconventional fuels production credit, if produced from a facility placed in service, or a well drilled, prior to January 1, 1991.

4. Determination of Operating Foundation Status for Certain Purposes

The Committee agreed to provide that, for purposes of section 302(c)(3) of the Deficit Reduction Act of 1984, a private foundation which constituted an operating foundation (as defined in section 4942(j)(3)) for its last taxable year ending before January 1, 1983, would be treated as constituting an operating foundation as of January 1, 1983.

5. Tip Reporting

The Committee expressed its concern that a number of sizeable establishments (over 25 employees) evidently are not observing the requirements of present law relating to the allocation of tips among employees based on the portion of the gross receipts attributable to particular employees during a payroll period. The Committee encouraged these employers to be certain that they are in compliance with this law, and agreed that if widespread abuse continues, the Committee may find it necessary to further strengthen the allocation rules or to impose penalties on non-complying employers.

6. Study of Investment-Oriented Life Insurance and Annuity Products

The Committee agreed to direct the Treasury Department and the General Accounting Office to each conduct studies (1) on the effectiveness of the revised tax treatment of life insurance and annuity products in preventing the sale of life insurance primarily for investment purposes, and (2) on the policy justification for, and the practical implications of, the present-law treatment of the earnings on the cash surrender value of life insurance and annuity contracts in light of the reforms made by the Tax Reform Act of 1986. The studies would be required to be submitted to the House Ways and Means Committee and the Senate Finance Committee by March 1, 1989.

7. Cigarette Excise Tax Study

The Committee agreed to require an ongoing study by the Treasury Department, after consulting with the Surgeon General, of the public and private health care costs incurred as a result of cigarette smoking in the United States and the impact of the rate of the cigarette excise tax on smoking by teenage and younger children; and certain other factors. The first report is to be submitted by April 1, 1989.

8. Study of Independent Contractors

The Committee agreed to require that the Treasury Department conduct a study of section 1706 of the Tax Reform Act of 1986, relating to the status of independent contractors who provide services through third parties, and report to the House Committee on Ways and Means and the Senate Committee on Finance no later than September 1, 1989.

M. Additional Revenue Raisers

In order to ensure that the bill is revenue neutral through fiscal year 1991, the Committee approved the following additional revenue raisers.

1. Depreciation of Single-Purpose Agricultural or Horticultural Structures

The Committee agreed that single-purpose agricultural structures which are used for housing, raising, and feeding poultry would be assigned a recovery period of 8 years, and all other single-purpose agricultural or horticultural structures would be assigned a recovery period of 12 years. The provision generally would apply to structures placed in service after December 31, 1988.

2. Depreciation of Farm Property

The Committee agreed that the applicable depreciation method for any property which is used in the trade or business of farming would be the 150-percent declining balance method, switching to the straight-line method at a time to maximize the depreciation allowance. The provision generally would apply to property placed in service after December 31, 1988.

3. Permitted Purpose Arbitrage Earnings on Student Loan Bonds

The Committee agreed to reduce the permitted arbitrage profits on notes financed with tax-exempt student loan bonds from 1.5 percentage points to 1.0 percentage points. In addition, for Federally-guaranteed student loan bonds, SAP payments would be included in calculating permitted arbitrage profits on student notes. The provision would apply to bonds (including refunding bonds) issued after July 31, 1988.

4. Loan Origination Period for Student Loan Bonds

The Committee agreed to require that all net proceeds of tax-exempt student loan bonds be used to originate student loans within three years after the bonds are issued. Proceeds which had not been used to originate loans by that time, and loan repayments, would be required to be used to redeem bonds within six months after the end of the three-year period (unoriginated proceeds) or before the end of the first semi-annual period after receipt (loan repayments). The provision would apply to bonds (including refunding bonds) issued after July 31, 1988.

5. Nondeductibility of Standard Base Charge for Business Use in Home of First Telephone Line

The Committee agreed to deny a deduction for any portion of the standard, monthly base charge for the first telephone line in a taxpayer's residence. This nondeductibility rule would not affect the deductibility of other types of telephone charges, such as for long distance calls, or the deductibility of business or income production use of any additional telephone line in the residence. The provision would be effective for taxable years beginning after December 31, 1988.

6. Disallow Marital Deduction for Foreigners

The Committee agreed that the marital deduction for estate and gift tax purposes would not be allowed for property passing to spouses who are not U.S. citizens. Aggregate gifts of less than $100,000 per year to alien spouses, however, would continue to qualify for the marital deduction. A marital deduction would be allowed for estate and gift tax purposes for property passing from nonresident aliens to spouses who are U.S. citizens. The provision would be effective for gifts made after July 14, 1988, and for decedents dying after date of enactment.

7. Repeal Special Gift and Estate Tax Rates and Credits for Foreigners

The Committee agreed that the tax base and rate structure for taxing estates of nonresident aliens would be conformed to that used for taxing estates of U.S. citizens and residents. A marital deduction would be allowed for property passing from nonresident aliens to spouses who are U.S. citizens. The provision would be effective for decedents dying after date of enactment.

8. Treatment of Mortality and Expense Charges in Life Insurance Contracts

The Committee agreed to provide, for all life insurance contracts, that the mortality charges taken into account for purposes of the definition of life insurance would be required to be reasonable as determined under Treasury regulations, and could not exceed the mortality charges required to be used in determining the Federal income tax reserve for the contract. The expense charges taken into account for purposes of the guideline premium requirement would be required to be reasonable based on the experience of the company, and other insurance companies, with respect to similar life insurance contracts. The provision generally would be effective for all life insurance contracts issued on or after July 13, 1988, with special rules for contracts which are materially changed.

9. Cost of Group-Term Life Insurance

Under present law, the cost of employer-provided group-term life insurance generally is included in an employee's income to the extent that such cost exceeds the cost of $50,000 of group-term life insurance (provided that the insurance is provided on a basis which does not discriminate in favor of the employer's highly compensated employees). In general, the cost of employer-provided group-term life insurance is determined under a table prescribed by the Secretary of the Treasury. However, the cost to any employee older than 63 is to be determined as if such employee were 63. The Committee agreed that for the purpose of the tax treatment of employer-provided group-term life insurance, the cost of group-term life insurance under the Table prescribed by the Secretary would reflect the age of the insured, without any special rules for individuals older than age 63. The provision would apply to group-term life insurance provided after December 31, 1988.

10. Update IRS Valuation Tables

The Committee agreed to require the IRS to modify the valuation tables used to value annuities, life estates and remainder interests to reflect current mortality assumptions and an interest rate of 120 percent of AFR. The provision would apply to annuities issued, and life estates and remainder interests created or transferred, six months after date of enactment.

11. **Excise Tax on Pipe Tobacco**

The Committee agreed to impose an excise tax of $2.67 per pound on pipe tobacco. The provision would be effective for pipe tobacco manufactured after September 30, 1988, with an appropriate floor stocks tax.

12. **Increase in Bad Check Penalty**

The Committee agreed to increase the bad check penalty charge (which has not been changed since 1954) to the greater of $15 or 2 percent of the amount of the check. This provision would be effective for checks written after date of enactment.

13. **Multifamily Rental Housing Bond Restrictions Applicable to Certain Obligations of Section 501(c)(3) Organizations**

The Committee agreed to extend the private, for-profit low-income tenant occupancy requirements to qualified residential rental property financed with qualified 501(c)(3) bonds.

This property, if financed with governmental bonds, would be treated as a non-purpose investment under the Code arbitrage rules if it were located outside the jurisdiction of the governmental unit issuing the bonds.

These provisions would apply to bonds (including refunding bonds) issued after July 14, 1988.

II. **FREE-STANDING COMMITTEE AMENDMENT ON FOSTER CARE**

The Committee also agreed to a free-standing amendment which provides a one-year extension of the current authority for foster care independent living programs designed to help teenagers in foster care make the transition to independence.

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- WAYS AND MEANS COMMITTEE -

H.R. 4333, Technical Corrections Act of 1988, as ordered reported

Fiscal Years 1988-93
(Millions of Dollars)

Item	1988	1989	1990	1991	1988-91
I. TECHNICAL CORRECTIONS ACT OF 1988 (H.R. 4333)					
A. As introduced	-48	38	52	44	86
B. Amendments adopted in Markup	-5	-15	-16	-16	-52
Subtotals: TECHNICAL CORRECTIONS ACT OF 1988 (H.R. 4333)	-53	23	36	28	34
II. WAYS AND MEANS SUBCOMMITTEE PROPOSALS					
A. Public Assistance Subcommittee: Extend the Foster Care Independent Living Program and AFDC Quality Control moratorium (1)	--	-36	-9	--	-45
B. Social Security Subcommittee: Make minor and technical benefit and tax adjustments to the Social Security Act (1)	--	-27	-42	-24	-93
Subtotals: WAYS AND MEANS SUBCOMMITTEE PROPOSALS	---	-63	-51	-24	-138
III. PROPOSALS BY OTHER HOUSE COMMITTEES					
A. Interior Committee: Exempt earnings of, and distributions from, Enjebi Community Trust Fund (effective for all open taxable years)	(2)	(2)	(2)	(2)	(3)
B. Merchant Marine Committee: Extend commencement date of Oil Spill Liability Trust Fund and tax on petroleum through 1990 (effective date of enactment)	--	--	--	--	---
Subtotals: PROPOSALS BY OTHER HOUSE COMMITTEES	(2)	(2)	(2)	(2)	(3)
IV. TIME-SENSITIVE SIMPLIFICATION AND CLARIFICATION PROPOSALS					
A. Additional Technical Corrections	-5	-3	--	2	-6
B. Employee Benefits					
1. Revise sanction for violation of the COBRA health care continuation rules (effective for taxable years beginning after 1988)	(4)	(4)	(4)	(4)	(3)
2. Simplify fringe benefit non-discrimination rules (section 89) (effective for years beginning after 1988)	(2)	(2)	(2)	(2)	(3)
C. Eliminate gift tax liability on creation of spousal joint and survivor annuities (effective after December 31, 1981)	(2)	(2)	(2)	(2)	(3)
D. Provisions affecting section 457: Codify IRS Notice 88-68; repeal section 457 for tax exempts; codify 1987 IRS Notice for State and local workers with permanent grandfather for current employees	--	-65	-46	-49	-160
Subtotals: TIME-SENSITIVE SIMPLIFICATION AND CLARIFICATION PROPOSALS	-5	-68	-46	-47	-166

Item	1988	1989	1990	1991	1988-91
V. EXTENSIONS					
A. Extend educational assistance through 1990 and deny benefit with respect to certain education leading to post-graduate degree for years beginning after 1988 with $1,500 cap	-88	-292	-270	-81	-731
B. Extend low-income housing credit through 1990	--	-26	-172	-345	-543
C. Extend mortgage revenue bonds through 1990 with new program targeting (effective after December 31, 1988), as modified; accord transition relief from MRB recapture rule for certain contracts entered before June 23, 1988	--	-9	-64	-102	-175
D. R & D Provisions					
1. Extend R & D credit through 1990	--	-401	-816	-366	-1,583
2. Reduce section 174 R&D expensing deduction by amount of section 41 R&D credit (effective for taxable years beginning after December 31, 1988)	--	136	277	124	537
3. Adopt Treasury Reg. sec. 1.861-8 compromise with gross sales cap (effective 1987 through 1990) and allocate 64% of foreign-conducted research to foreign sources (effective for taxable years beginning after June 21, 1988)	-349	-540	-597	-248	-1,735
E. Extend targeted jobs tax credit through 1990 with new program targeting	--	-47	-130	-138	-315
F. Adopt permanent exemption of publicly-offered regulated investment companies from 2% floor on miscellaneous itemized deductions	-38	-262	-314	-377	-991
G. Adopt permanent modification of diesel fuel excise tax collection and exemption procedures for off-highway business users (effective July 1, 1988)	-84	-232	-61	-62	-439
Subtotals: EXTENSIONS	-559	-1,673	-2,147	-1,505	-5,875
VI. ADDITIONAL PROPOSALS					
A. Individual					
1. Athletic tickets--80% charitable contributions deduction	(2)	(2)	(2)	(2)	(3)
2. Rural letter carriers--mileage deduction	-1	-3	-3	-3	-10
3. Rollover of gain on a principal residence when one spouse dies	(2)	-8	-9	-10	-27
4. Deductibility of business meals--oil rig workers and U.S. ocean-going and inland waterway vessels	--	-11	-11	-12	-34
5. Expand innocent spouse relief for former spouses with small net worth	(5)	(5)	(5)	(5)	(3)
6. Christa McAuliffe Federal Government fellowship grants excludable where money spent for grant purposes (through 1990)	(2)	(2)	(2)	(2)	(3)
7. Air cargo passenger seats--no-additional-cost fringe benefit	-1	-2	-2	-2	-7
B. Corporate					
1. Woods Investment effective date--clarify weekends and holidays excluded	(5)	(5)	(5)	(5)	(3)
2. Regulatory authority to provide access to tax refunds to statutory or court-appointed fiduciary of insolvent members of consolidated tax return	(2)	(2)	(2)	(2)	(3)
C. Minimum Tax					
1. Exclude bankruptcy/insolvency debt restructuring from book preference	(5)	(5)	(5)	(5)	(3)
2. Exclude structured settlement arrangements from ACE	--	--	-5	-10	-15

Item	1988	1989	1990	1991	1988-91
D. Accounting					
1. Uniform capitalization rules:					
a. Artists, writers, photographers (effective date of January 1, 1987)	-33	-6	-2	-2	-43
b. Preproductive period expenses for livestock (effective date of January 1, 1989)	--	-85	-194	-180	-459
c. Pistachio preproductive period expenses	-2	-1	-1	-1	-5
2. Allow one repledging to qualify for installment sales grandfather rule provided no additional money received in refinancing	-15	4	2	1	-8
3. Beneficial ownership of stock held in trust included in determining whether certain corporations may use the cash method of accounting	(2)	(2)	(2)	(2)	(3)
E. Financial Institutions					
1. Bank Holding Companies/Personal Holding Companies	--	-4	-9	-5	-18
F. Insurance					
1. Repeal of general creditor requirement under structured settlement rules	(6)	(6)	(6)	(6)	(3)
2. Treatment of certain workers' compensation funds--retroactive relief to January 1, 1987	--	-40	-30	--	-70
3. Church self-funded death benefit plans treated as life insurance	(6)	(6)	(6)	(6)	(3)
4. Prepaid tax certificates purchased by property and casualty insurers	--	--	--	--	---
G. Pensions					
1. Limitation on contributions and benefits under qualified plans of public employers	(2)	(2)	(2)	(2)	(3)
2. Exempt certain public pension plans from minimum participation rule	(2)	(2)	(2)	(2)	(3)
3. Age 70-1/2 required beginning date not extended to public employees	(2)	(2)	(2)	(2)	(3)
4. Section 401(k) plans available to employees of rural telephone coops	--	-2	-4	-5	-11
5. Employers entitled to rely on good-faith interpretation of section 403(b) nondiscrimination rules for 2 years	(6)	(6)	(6)	(6)	(3)
H. Foreign					
1. Suspend recapture of excess loss account in connection with certain dual resident company reorganizations	(4)	(4)	(4)	(4)	(3)
2. Codify absence of withholding requirement on nonresident alien's table game income	--	--	--	--	---
3. Shareholder-level qualified electing fund election for PFICs	(4)	(4)	(4)	(4)	(3)
4. Extend foreign currency sourcing and characterization rules prospectively to financial instruments that are marked-to-market	--	--	--	--	---
5. Increase Netherland Antilles debt-equity ratio	(7)	(7)	(7)	(7)	(3)
6. Foreign insurance branch treated as separate corporation (effective January 1, 1989)	--	-3	-6	-7	-16
I. Tax-Exempt Bonds					
1. Clarification of definition of manufacturing for qualified small-issue bonds	-2	-6	-11	-12	-31
2. Miscellaneous clarifications: Extension of minimum period for calculating TRAN safe harbor compliance; clarification of Treasury Department arbitrage rebate regulatory authority; arbitrage rebate exemption for certain debt service funds and expanded for governmental bonds	(8)	(8)	(8)	(8)	(3)
3. Expand volunteer fire company bond authority	(2)	(5)	(5)	(5)	(3)

Item	1988	1989	1990	1991	1988-91
J. Low-income housing credit:					
1. Disregard certain local government zoning "exactions" on credit qualifications	(6)	(6)	(6)	(6)	(3)
2. No rent adjustment required for certain reductions in family size	--	-3	-3	-3	-9
3. Remove 50% limit on corporate interest in partnership qualifying for special recapture rule	--	-4	-9	-9	-22
K. Estate and Gift					
1. Special use valuation--available notwithstanding receipt of cash rental by surviving spouse	(6)	(6)	(6)	(6)	(3)
2. Involuntary disposition of ESOP stock acquired from estate claiming special estate tax deduction	(9)	(9)	(9)	(9)	(3)
L. Compliance					
1. Permit information sharing with cities above 250,000	(6)	(6)	(6)	(6)	(3)
M. Excise Taxes					
1. Wine tolerance--permit de minimis tolerances in determination of wine tax	(2)	(2)	(2)	(2)	(3)
2. Allow wholesalers to claim gas tax refunds for certain exempt users	--	-5	(6)	(6)	-5
3. Exempt donated cargo from harbor maintenance tax	(2)	(2)	(2)	(2)	(3)
4. Provide retail truck tax inapplicable where exemption benefits United States Government	-2	(2)	(2)	(2)	-2
5. Allow quarterly payment of archery excise tax	(2)	-2	(2)	(2)	-2
N. Miscellaneous					
1. Eliminate limitation on Treasury long-term bond authority	--	--	--	--	---
2. Discharge of indebtedness income of mutual or cooperative telephone, water, or electric companies excluded in determining tax-exempt status (1988 and 1989 only)	--	-17	-17	-17	-51
3. Extend placed-in-service date for nonconventional fuels credit through December 31, 1990	--	--	-3	-3	-6
4. Determination of operating foundation status for certain purposes	-1	(2)	(2)	(2)	-1
O. Items Requiring Only Report Language (no statutory change)					
1. Exclude bankruptcy/insolvency stock for debt swap (ACE)	(2)	(2)	(2)	(2)	(3)
2. Tax exemption of organizations providing supplemental HMO-type services under section 501(m)	(6)	(6)	(6)	(6)	(3)
3. Early withdrawal tax inapplicable to annuity even if accompanied by lump sum	--	--	--	--	---
4. Tip reporting--require observance of 1986 Act provisions	--	--	--	--	---
P. Mandated Studies					
1. Investment-oriented life insurance and annuity products	--	--	--	--	---
2. Cigarette excise tax	--	--	--	--	---
3. Dividend received deduction	--	--	--	--	---
4. Section 457	--	--	--	--	---
Subtotals: ADDITIONAL PROPOSALS	-57	-198	-317	-280	-852

Item	1988	1989	1990	1991	1988-91
VII. REVENUE RAISERS					
A. Reduce portfolio dividends received deduction from 70% to 55% in 1989, 52.5% in 1990, and 50% beginning in 1991 and thereafter...	--	352	643	776	1,771
B. Repeal completed contract method of accounting (effective for contracts entered into on or after June 21, 1988).....	92	585	1,030	710	2,417
C. Restrict single-premium and investment-oriented life insurance and annuity products (generally effective for amounts attributable to premiums paid on or after June 21, 1988).....	3	24	112	215	354
D. Accelerate corporate estimated taxes (effective for payments required to be made after December 31, 1988).....	--	742	83	44	869
E. Repeal Alaska Native Corporations grandfather for certain losses after April 26, 1988.....	75	300	225	225	825
F. Extend multifamily rental housing low-income tenant requirements to certain 501(c)(3) bonds and treat certain similar governmental bonds as arbitrage bonds.....	--	2	6	9	17
G. Increased penalties on bad checks to IRS.....	--	6	6	6	18
H. Treatment of single-purpose agricultural structures (10).....	--	4	17	23	44
I. Depreciation of farm property (10).....	--	26	101	160	287
J. Reduce student loan bond purpose arbitrage.....	--	1	1	2	4
K. Impose loan origination period on student loan bonds.....	--	2	3	5	10
L. Disallow business or investment deduction for base charge of home telephone.....	--	16	28	29	73
M. Disallow estate and gift marital deduction for transfers to foreign spouses.....	--	27	67	45	139
N. Repeal special estate tax rates and credits for foreign estates.....	(4)	(4)	2	3	5
O. Require reasonable mortality and expense charges for definition of life insurance.....	(4)	10	10	10	30
P. Adjust valuation of group-term life insurance for individuals age 64 and over.....	--	6	10	10	26
Q. Update IRS valuation tables.....	--	10	10	10	30
R. Impose $2.67-per-pound excise tax on pipe tobacco (effective October 1, 1988; with floor stock tax).....	--	58	61	61	180
Subtotals: REVENUE RAISERS.....	**170**	**2,171**	**2,415**	**2,343**	**7,099**
GRAND TOTALS.....	**-504**	**192**	**-110**	**425**	**2**

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(1) Includes increases in outlays.
(2) Loss of less than $500,000.
(3) Totals are not available for estimates represented by footnotes.
(4) Gain of less than $500,000.
(5) Loss of less than $5 million.
(6) Negligible amount.
(7) Gain of less than $1 million.
(8) Gain of less than $5 million.
(9) Loss of less than $1 million.
(10) Effective for equipment placed in service after December 31, 1988, with binding contract rule.